

TO:                    Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE          FILING OR DETERMINATION OF AN          ACTION REGARDING A PATENT OR          TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Eastern District of Missouri on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 4:09-cv-01970-TCM	DATE FILED 12/01/2009	U.S. DISTRICT COURT United States District Court Eastern District of Missouri Eastern Division
PLAINTIFF  Monsanto Company, et al.,		DEFENDANT  Billy King
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 RE 39,247		See attached complaint.
2 5,352,605		
3		
4		
5		

**In the above—entitled case, the following patent(s)/ trademark(s) have been included:**

DATE INCLUDED	INCLUDED BY	
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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**In the above—entitled case, the following decision has been rendered or judgement issued:**

DECISION/JUDGEMENT
Consent Judgment (2/9/10) (attached)

CLERK	(BY) DEPUTY CLERK	DATE
JAMES G. WOODWARD	/s/ David L. Braun	December 2, 2009

Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MONSANTO COMPANY AND  
MONSANTO TECHNOLOGY, LLC,

Plaintiff,

v.

BILLY KING,

Defendant.

Case No. 4:09-cv-1970 TCM

CONSENT JUDGMENT

**PARTIES**

Plaintiffs are Monsanto Company and Monsanto Technology, LLC (sometimes referred to hereinafter as Monsanto). Monsanto Company is a company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri. Monsanto Technology, LLC is a company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri.

Defendant, Billy King, is a natural person, residing in North Carolina, and engages in commercial farming and in North and South Carolina.

**STIPULATED FINDINGS**

Subject matter jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §1331, in that one or more of Monsanto's claims arise under the laws of the United States, as well as 28 U.S.C. §1338, granting district courts original jurisdiction over any civil action regarding patents.

Venue is proper in this judicial district because the parties in this action agreed to personal jurisdiction in this judicial district and have designated this Honorable Court as the exclusive forum and venue for all disputes arising under the licensing agreement executed by

Defendant.

Monsanto is in the business of developing, manufacturing, licensing, and selling agricultural biotechnology, agricultural chemicals and other agricultural products. After the investment of substantial time, expense, and expertise, Monsanto invented an agricultural biotechnology consisting of genetic traits that enable crops to express resistance to glyphosate based herbicides such as Roundup® branded herbicides.

This biotechnology has been utilized by Monsanto in several agricultural crops, including soybeans, and enables the soybeans to be treated with glyphosate based herbicides without being damaged. This genetically improved soybean seed is marketed by Monsanto and other seed companies as Roundup Ready® soybeans.

Monsanto's Roundup Ready® biotechnology is protected under patents issued by the United States Patent Office, specifically including U.S. Patent Nos. RE39,247 E and 5,352,605. Prior to the events giving rise to this action, the '247 and '605 patent were issued and/or Monsanto was the exclusive licensee from the owner and was authorized to enforce the rights relating thereto, including seeking injunctive and monetary relief and remedy for the infringement thereof.

Monsanto placed the required statutory notice that its Roundup Ready® biotechnology was patented on the labeling of all bags containing Roundup Ready® soybean seed in compliance with 35 U.S.C. §287(a). In particular, each bag of Roundup Ready® soybeans are marked with notice of the '605 patent.

Under the terms of Monsanto's limited use license agreements through which Roundup Ready® soybeans are sold, a purchaser is only authorized to use the seed for planting a commercial crop in a single growing season, and is prohibited from saving harvested seed for the

purpose of planting a subsequent crop. In addition, the user is prohibited from selling saved seed or supplying or transferring any seed produced from the purchased seed to third parties for planting.

Defendant admits that he planted Roundup Ready® soybeans without authorization during the 2004 through 2009 crop years. Defendant's actions of planting unauthorized Roundup Ready® soybeans infringes U.S. Patent Nos. RE39,247 E and 5,352,605.

The Defendant's planting of saved Roundup Ready® soybeans without authorization from Monsanto constitutes patent infringement with a deliberate and wilful disregard of Monsanto's patent rights in the '247 and '605 patents pursuant to 35 U.S.C. §271(a).

The Defendant's infringing activities of planting saved Roundup Ready® soybeans without authorization were intentional and willful.

Defendant is represented by North Carolina counsel who has not entered his appearance in this case, but who has counseled with and advised the Defendant with respect to the Consent Judgment.

#### MONETARY DAMAGES

By consent of the parties, judgment is entered against Defendant, Billy King, in favor of Monsanto in the amount of TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00).

IT IS SO ORDERED.

Dated <sup>Feb</sup> ~~January~~ 9, 2010.

  
United States Magistrate Judge